

## INITIAL STATEMENT OF REASONS

The California Department of Social Services (hereinafter “the Department”), through the Child Care Licensing Program within the Community Care Licensing Division, is responsible for licensing child care centers (hereinafter “CCCs”) and ensuring children enrolled in them receive the care and supervision necessary to meet their needs. (Health & Safety Code, sections. 1596.70-1597.21; Title 22, California Code Regulations, sections 101151-101439.1)

- a. Specific purpose of the regulations and factual basis for determination that Regulations Are Necessary

### **Sections 101161(b), (b)(1), and (b)(2)**

#### **Specific Purpose:**

Sections 101161(b), (b)(1), and (b)(2) prevent nonambulatory children from being enrolled in licensed CCCs approved for ambulatory children only and prohibit them from using rooms or areas within CCCs restricted to ambulatory children. These limitations are obsolete and historically served the purpose of fire safety in CCCs. Sections 101161(b)(1) and (b)(2) are to be repealed because they conflict with fire safety requirements adopted and administered by the State Fire Marshal and local fire authorities that sufficiently protect nonambulatory children. Furthermore, there are no additional safety concerns requiring the separation of nonambulatory children from ambulatory children in CCCs and rooms within CCCs. Section 101161(b)(2) is also proposed to be repealed because, upon the deletion of 101161(b) and (b)(1), the Department will not need the authority to require children who use ambulatory sections of the CCC to demonstrate that they are ambulatory.

#### **Factual Basis:**

These repeals are necessary to bring Section 101161 into conformity with fire safety requirements administered by the State Fire Marshal and local fire authorities. Health and Safety Code section 120335 and Title 22, California Code of Regulations, section 101171 require all CCCs to secure and maintain a fire clearance approved by the city or county fire department, the district providing fire services, or the State Fire Marshal. The State Fire Marshal and local fire authorities inspect CCCs as a Group E occupancy to determine if a fire clearance can be issued (Tit. 24, Cal. Code Regs. California Building Standards Code, Part 2, Volume 1 [California Building Code], sec. 305.2). They apply the requirements of Title 24, California Code of Regulations, California Code of Regulations, California Building Standards Code, Part 2, Volume 1 [California Building Code], secs. 452-452.1.4. There is no language in the California Building Code requiring the exclusion or separation of nonambulatory children in CCCs.



The Child Care Program (hereinafter “the program”) has determined that the State Fire Marshal and local fire authorities possess exclusive jurisdiction over the creation and enforcement of these California Building Code requirements for inspections necessary for the issuance of CCC fire clearances. The program has also determined that, even if the State Fire Marshal and local fire authorities do not possess exclusive jurisdiction, there are no fire safety or other safety concerns justifying the exclusion and separation of nonambulatory children in CCCs as set forth in Section 101161(b) and (b)(1).

b) Identification of Documents Upon Which Department Is Relying

The Department is identifying no documents in support of the repeal as the exclusive jurisdiction of the State Fire Marshal to address fire safety in CCCs legally requires it. Even if not legally required, the Department has not identified any fire safety or other safety concerns justifying the exclusion and separation of nonambulatory children in CCCs. As such, there is no documentation of any such concerns.

c) Local Mandate Statement

The repeal does not impose upon local agencies or school districts. The repeal imposes no "state-mandated local costs" that require reimbursement under the laws of California.

d) Statement of Alternatives Considered

The Department has made an initial determination that there is no reasonable alternative that would be more effective in carrying out the purpose for which the repeal is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact on Business

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

f) Economic Impact Assessment

In accordance with Government Code section 11346.3(b), the Department has made the following assessments regarding the proposed regulations. This analysis is intended to be a tool or baseline to establish that these regulatory measures are the most cost-effective to affected California enterprises and equally effective in implementing the statutory policy or other provision of law.

The economic impact of the repeal is negligible. It will have no measurable effect upon the creation or elimination of jobs or businesses within California, nor will it facilitate the expansion of businesses currently doing business with the state. The proposed repeal



of Section 101161(b), (b)(1), and (b)(2), will enable CCCs to more easily enroll nonambulatory children and provide care and supervision for them. Parents and guardians of nonambulatory children will be able to enroll their children in CCCs more readily.

### **Creation or Elimination of Jobs Within the State of California**

The repeal will neither create nor eliminate jobs in the State of California.

### **Creation of New or Elimination of Existing Businesses Within the State of California**

The repeal will neither result in the creation of new businesses nor elimination of existing businesses in the State of California.

### **Expansion of Businesses Within the State of California**

The adoption of the proposed regulations will not result in the expansion of businesses in the State of California.

### **Benefits of the Regulations**

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows: the proposed action will make it less burdensome for CCCs to enroll nonambulatory children and provide care and supervision for them. Parents and guardians of nonambulatory children will be able to enroll their children in CCCs more readily.

### **Documents Relied Upon**

The Department is identifying no documents in support of the repeal as the exclusive jurisdiction of the State Fire Marshal to address fire safety in CCCs legally requires it. Even if it is not legally required, the Department has not identified any fire safety or other safety concerns that justify the exclusion and separation of nonambulatory children in CCCs, and, accordingly, there is no documentation of any such concerns.

#### **g) Benefits Anticipated from Regulatory Action**

The proposed repeal of Section 101161(b), (b)(1), and (b)(2), will enable CCCs to more easily enroll nonambulatory children and provide care and supervision for them. Parents and guardians of nonambulatory children will be able to enroll their children in CCCs more readily.



h) Statement of Specific Technology or Equipment

This regulatory action will not mandate the use of new, specific technologies or equipment.